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To: The Commission

The National Association of Business and Educational Radio, Inc. ("**NABER**") by its attorneys and pursuant to Section 1.419 of the Commission's Rules, 47 C.F.R. §1.419, respectfully submits its Reply Comments in response to the Comments filed in the above-captioned proceeding.¹

In its initial Comments, NABER noted that while NTIA has proposed the reallocation of 50 MHz of spectrum, a closer review of each band reveals that little immediate benefit will be realized. However, NABER's Comments and the COPE Petition demonstrated the tremendous immediate need for additional spectrum for the private services. Thus, while the Commission should act expeditiously to ensure that the designated spectrum is reassigned for use as soon as possible, it must also realize that what is proposed falls far short from what is needed. Therefore, NABER

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encouraged the Commission and NTIA to continue to work to locate reallocatable spectrum which can provide the real benefits which this proceeding is designed to achieve.

Comments in this proceeding completely support several points made in NABER's Comments: (1) there is a tremendous need for private, non-commercial spectrum;² (2) the bands proposed for reallocation have limited potential for private use;³ (3) preventing interference to satellite services will be difficult;⁴ (4) preventing interference to Part 15 devices will be difficult;⁵ and (5) sharing with the amateur services is not feasible;⁶

II. REPLY COMMENTS

Four (4) sets of Comments in this proceeding request allocations of spectrum for which no demonstration of need has been shown. First, Loral/Qualcomm Partnership, L.P. ("Loral/Qualcomm") requests that the Commission "... allocate all of the initial 50 MHz to be made available by the National Telecommunications and Information Administration for use by mobile satellite service

²See, for example, the Comments of Major Cities Police Chiefs Association; International Association of Chiefs of Police; American Petroleum Institute; Utilities Telecommunications Council.

³See, for example; Comments of Motorola, Inc.; Telecommunications Industry Association; Pacific/Nevada Bell.

⁴See, for example, Comments of Radio Amateur Satellite Corporation.

⁵See, for example, Comments of Symbol Technologies, Inc.; Apple Computer, Inc.; Itron, Inc.; InterDigital Communications Corporation; Western Multiplex Corporation; Part 15 Coalition.

⁶See, Comments of Southern California Repeater and Remote Base Association ("SCRRBA"); Northern Amateur Relay Council of California, Inc.

(MSS) systems."⁷ Loral/Qualcomm makes no demonstration whatsoever of a need for additional spectrum other than its desire for more capacity. However, Loral/Qualcomm does not make any showing that its current allocation is insufficient for either its first or second generation equipment, or that its current service offering is operating at maximum capacity. Further, the Comments of American Mobile Satellite Corporation ("AMSC") point out that "... the newly transferred spectrum has at most very limited utility for Mobile Satellite Service ("MSS")."⁸

Leasco Rural Telephone Cooperative ("Leasco") requests that the Commission allocate the 2390-2400 MHz, 2402-2417 MHz and 4660-4685 MHz bands for interactive video, voice and data in rural areas. Leasco claims that it is unable to construct such a system in its service area of 900 telephone subscribers (which Leasco states is "sparsely populated") because of mutual exclusivity on ITFS and MMDS spectrum. However, Leasco makes no representations as to the uses of the spectrum by ITFS and MMDS systems in the area. Thus, Leasco may only wish to construct a competitive system in a sparsely populated area. The Commission should not make an allocation of spectrum based upon such a questionable demonstration of need to serve such a limited number of people.

Southwestern Bell Corporation ("SW Bell") requests that the 2390-2400 MHz and 2300-2310 MHz bands be allocated for wireless local loop service. SW Bell claims that it will use the capacity

⁷Comments of Loral/Qualcomm at 1 (footnote omitted).

⁸Comments of AMSC at 1.

for "new growth in access lines and for rehabilitation of aging plant. SW Bell claims that use of the new PCS allocation for wireless local loop service "remains unattractive", because the build-out requirement is "too stringent".

It is NABER's view that any "wireless local loop service" need has been more than addressed by the allocation of PCS spectrum. In addition, since the service is only a substitute for wire, the need pales in comparison to mobile service needs by non-carriers, which has been well documented in this proceeding.

Finally, the Association for Maximum Service Television, Inc. ("MSTV") states that the 2402-2417 MHz and 4660-4685 MHz bands "should be reserved for wideband advanced digital video services and allocated to terrestrial fixed and mobile auxiliary broadcast operations." NABER finds the request for additional broadcast spectrum to be extremely cynical, particularly when the broadcast industry is asking Congress to permit television broadcasters to offer mobile services on the broadcasters' excess capacity. The most spectrum inefficient industry is asking the Commission for yet another allocation of spectrum, at a time when ATV systems have yet to be implemented. NABER suggests that prior to permitting additional spectrum to be used by the broadcast industry, it demonstrate that it is using its currently assigned spectrum in an efficient manner.

III. CONCLUSION

WHEREFORE, the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

NATIONAL ASSOCIATION OF BUSINESS
AND EDUCATIONAL RADIO, INC.

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